

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

FORTIS BANK (NEDERLAND) N.V.,)	
)	
Plaintiff,)	
)	
MASSACHUSETTS PORT AUTHORITY,)	
et al.,)	
)	
Intervenor Plaintiffs)	
)	
v.)	Civil No. 04-147-P-S
)	
M/V <i>SHAMROCK</i> AND COPROPRIETE DU)	
NAVIRE SHAMROCK,)	
)	
Defendants)	
and)	
)	
COMATRANS, S.A.)	
SP CONTAINER LINE SA, and)	
SNC SHAMROCK GESTION,)	
)	
Parties-in-Interest.)	

AMENDED ORDER FOR THE INTERLOCUTORY SALE OF THE M/V SHAMROCK

Before the Court is the Expedited Motion of Fortis Bank (Nederland) N.V. for Interlocutory Sale of the M/V Shamrock (Docket # 70). The Court received status reports from the parties and held a hearing on this request for relief on September 13, 2004.

Pursuant to Supplemental Rule E(9)(b) and for good cause shown in accordance with Supplemental Rule E(9)(b)(i)(B)&(C), the Court hereby ORDERS that the M/V Shamrock be sold by the United States Marshal at public auction and that the proceeds from the sale be deposited in the registry of the Court to await further order of this Court.

The United States Marshal is hereby ORDERED to utilize the following procedures in conducting the sale:

Location of the Sale & Prior Notice

The sale shall be held by public auction to be conducted on Friday, November 12, 2004 at 2:00 p.m. The location of the auction shall be: the steps of the Edward T. Gignoux Federal Courthouse, located at 156 Federal Street, Portland, Maine, and in the case of inclement or cold

weather the auction may be reconvened, at the Marshal's sole discretion, to a nearby indoor location where cell phone reception and use will allow for participants in the auction to remain in contact with their principals during the course of the bidding. The Marshal shall make provision for notice of the changed location for any latecomers to the auction.

Prior to the public auction, a Notice of United States Marshal's Sale shall be published in the following publications:

- (1) The Portland Press Herald,
- (2) The Wall Street Journal,
- (3) The London Times, and
- (4) The New York Times.

All Notices shall be published within twenty-one (21) days prior to the sale. As long as the publication schedule permits, the Notice shall run in each publication at least three (3) times prior to sale. Such Legal Notice shall include all of the information contained in the Notice of United States Marshal's Sale attached to this Order.

Prior to the public auction, the United States Marshal may, in coordination with the substitute custodian, arrange for viewing of the ship by potential bidders over a set three (3) day "open house" period from October 26-28, 2004, which dates are subject to minor modification for the convenience of the Marshal and the substitute custodian. At the discretion of the substitute custodian, persons desiring to board the vessel for such viewing may be required to execute documents that bar or limit their right to recover for personal injury incurred in boarding and/or viewing the ship.

Conduct of the Sale

The sale shall be conducted by the Marshal with the assistance of Thomas Saturley of Tranzon Auction Properties, Portland, Maine, as a public auction in United States Dollars (USD), with a starting bid of \$5,000,000.00 and bid increments of \$50,000.00.

In order to participate in the bidding, the bidder must tender a certified check for \$200,000.00 payable to the United States Marshals Service to be held by the Marshal during the auction, with said check to be returned to the bidder at the end of the auction if the bidder is not the successful bidder. Within five (5) business days, the successful bidder shall increase the amount on deposit with the United States Marshals Service to ten percent (10%) of the

successful bid. The remaining balance shall be paid within ten (10) business days following the approval of the bid by the Court or thirty (30) calendar days from the auction dated, whichever is later. All payments by the successful bidder shall be made by wire transfer, certified check or cashier's check.

Any credit bids by Fortis Bank will also be accepted, provided that Fortis in addition shall pay or make provision for those claims then on file in this litigation that are alleged to be superior in priority to Fortis' preferred ship mortgage pursuant to 46 U.S.C. § 31326, such amounts to be paid either in cash or by deposit of security in the Court registry.

The successful bidder shall be required to pay the balance within three (3) days after the day on which the bid is accepted and shall be responsible for costs of keeping the vessel from the date that the bid is accepted.

If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder will be deemed to be in default. In such a case, the Marshal may accept the second highest bid or arrange a new sale. The defaulting bidder's deposit shall be forfeited and applied to any additional costs incurred by the Marshal because of the default, the balance being retained in the registry of the Court awaiting its order.

Objection to and Confirmation of Sale

Any interested person may object to the sale by filing a written objection within three (3) days following the date of auction and acceptance of the successful bid. Any objection shall be served on all parties of record, the successful bidder and the United States Marshal. Anyone filing an objection is required to deposit with the United States Marshals Service a sum that is sufficient to pay the expense of maintaining the ship for at least seven (7) days. Payment to the Marshal shall be made by wire transfer, certified check or cashier's check.

The sale shall be confirmed by Order of this Court within five (5) business days but no sooner than three (3) business days after the sale unless an objection to the sale has been filed, in which case the Court shall hold a hearing on the confirmation of the sale. The United States Marshal shall transfer title to the purchaser upon order of the Court and receipt of the entire amount due under the bid.

If an objection to the sale is sustained, sums deposited by the successful bidder will be returned forthwith. The sum deposited by the objector will be applied to pay the fees and

expenses incurred by the Marshal in keeping the property until it is resold, and any remaining balance shall be returned to the objector. The objector will be reimbursed for the expense of keeping the vessel from the proceeds of the subsequent sale.

Deposit of Proceeds from the Sale

All proceeds from the sale shall be forthwith paid into the registry of the Court and shall be disposed of by further order of the Court upon resolution of the merits of this litigation and in accordance with the relevant law.

SO ORDERED.

/s/ George Z. Singal
Chief U.S. District Judge

Dated this 13th day of September 2004.

Amended this 26th day of October 2004.

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Intervenor Defendant

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Counter Claimant

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Interested Party

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Counter Claimant

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Counter Claimant

COPROPRIETE DU NAVIRE

SHAMROCK

M/V SHAMROCK

V.

Counter Defendant

UNION OIL CO OF MAINE

Counter Claimant

COMATRANS S A

**COPROPRIETE DU NAVIRE
SHAMROCK**

M/V SHAMROCK

SNC SHAMROCK GESTION

SP CONTAINER LINE SA

SPM LINE INC

V.

Counter Defendant

**FORTIS BANK (NEDERLAND)
NV**

NOTICE OF UNITED STATES MARSHAL'S SALE
United States District Court for the District of Maine
Civil Action No. 2:04-cv-147-P-S

By virtue of an *Order for Interlocutory Sale of the Vessel* issued by the United States District Court for the District of Maine on September 13, 2004, notice is hereby given that I will sell by public auction to the highest and best bidder, on Friday, **November 12, 2004 at 2:00 p.m.** Eastern Daylight Time, on the steps of the Edward T. Gignoux Federal Courthouse, 156 Federal Street, Portland, Maine:

the motor vessel *Shamrock*
understood (***without warranty***) to be a ro-ro containership of French flag
of overall length of about 120 meters
and bearing IMO Number 9208435, and radio call sign FTCW,

to be sold ***WHERE IS, AS IS.***

In order to participate in the bidding, the bidder must tender a deposit check for \$200,000.00 payable to the United States Marshals Service to be held by the Marshal during the auction, with said check to be returned to the bidder at the end of the auction if the bidder is not the successful bidder. Within five (5) business days of the auction, the successful bidder shall increase the amount on deposit with the United States Marshals Service to ten percent (10%) of the successful bid with payment made by wire transfer, certified check or cashier's check. The balance of the bid price is due, in the same form, at the aforesaid office of the United States Marshal, within ten (10) business days following the approval of the bid by the Court or thirty (30) calendar days from the auction dated, whichever is later. Failure to pay the balance within this time period will result in the deposit being forfeited for the benefit of parties to the case, as their respective interests may appear, and the Marshal may thereupon sell the vessel to the next highest bidder who satisfies the conditions set down by the Court. The confirmation hearing will be held before the Honorable George Z. Singal, not sooner than one week following the auction, said date specifically to be announced at the auction, which announcement shall be binding upon all interested parties.

Interested parties and potential bidders should contact the Marshals Service at 207-780-3355, to confirm the scheduling of the sale. The vessel currently lies at anchor in Portland Harbor. It is possible (but not certain) that the vessel may be made available to allow interested parties to inspect the vessel, within a set three day "open house" period, anticipated to be October 26-28, 2004, which dates are subject to change. Persons who desire to inspect the vessel, either during the open house period or at another scheduled time, should contact Mark Brown at 1-800-633-7172. In any event, persons desiring to board the vessel may be required to execute documents that bar or limit their right to recover for personal injury incurred in so doing.